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THE PENALTY FOR False Verdicts, AND *The* REMEDY *for Parties greived thereby, as it is by Law Eſtabliſh'd.*

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FOraſmuch as the puniſhments of Jury-Men that give untrue Verdicts, lye as it were abſconded in the Crowd of the large Volums of the Law and Statutes of this Realm: as alſo the Remedy and Satisfaction the Law gives the Party greiv'd by ſuch falſe Verdicts. That it's ſcarce known but to few of the Profeſſors of the Law only: which emboldens Corrupt Men to ſin in that ſort without check and without any regard to Evidence; whereby too frequently, poor injur'd Men muſt lye under the wrong, through ignorance of what proviſion the Wiſdome and Juſtice of the Law hath made in ſuch Caſes. It may be therefore a great means to prevent ſuch miſcheifs for the future to have the Law touching falſe Verdicts briefly and ſingly publiſht. That ſtanding by it ſelf, it may be Obvious to the ſight of every man.

When any matter of Controverſie doth ariſe between party and party, he that apprehends himſelf Injur'd, hath liberty to apply himſelf to ſome Court of Judicature for his Redreſs, and thoſe Courts for the moſt part, for tryal of and finding out the Truth of the point in Iſſue between the Parties in moſt matters of Fact, that is, when the queſtion is whether ſuch a thing be done or not done, Do appoint Twelve ſuppoſed honeſt Men, who are Sworn to give a true Verdict, that is, to make a Report upon Oath unto the Court how they find it according to Evidence.

This ſort of Tryal by Twelve Men is very antient, and may be the beſt ſort of Tryal: as being the Leaſt ſubject to Corruption: it being formerly not ſo eaſie a matter to Corrupt Twelve Men as one; but now we find the Proverb often verified in Jury-Men, *That one Scabby Sheep will infect a whole flock*, get but one ſubtle Cunning fellow in the pack and your buſi-

neſs is done. Let the Evidence be what it will, Let the Counſel ſay what they will, that this is Law or not Law: Nay let the Judge give what direction he will, this Fellow will ſway all the reſt and make them Conſent to a Verdict as he will himſelf, and againſt the Evidence and Equity of the matter. For prevention of which evil it is ordain'd by the Statute of 23. of *H.8.ch.* 3. That upon every untrue Verdict given between Party and Party in any plaint, Suit or Demand, before any Judges of Record, where the thing in demand and Verdict thereupon given, extendeth to 40 *l.* and concerneth not the Jeopardy of Mans life, the Party greived by ſuch untrue Verdict ſhall have a writ of Attaint againſt every Perſon ſo giving an untrue Verdict, and againſt the Party that ſhall have Judgment upon the ſame Verdict, and it ſhall be try'd by a Grand-Jury of 24 Freholders that have at Leaſt 20 Marks *per Annum*, out of antient demean. And if theſe find that the petty Jury gave an untrue Verdict, that is, otherwiſe than according to the Evidence there given they ought to have done, every of ſuch Jury as gave ſuch untrue Verdict ſhall forfeit 20 *l.* a piece. Whereof one Moiety ſhall be to the King, and the other Moiety ſhall be to the Party that ſueth, and further they ſhall make Fine and Ranſome according to the diſcretion of the Juſtices, before whom it ſhall be found to be a falſe Verdict, according to their ſeveral offences, defaults and ſufficiencies of their Eſtates: and they never after to be in any Evidence, nor their Oath accepted in any Court, and the Party greived to be reſtor'd to what he Loſt, with his reaſonable Coſts and Damages.

The like Remedy is in caſe the Debt or Damage be under 40 *l.* ſaving that the Grand-Jury need not have above 5. marks a peice *per annum*, and the Jury that gave the untrue Verdict, to forfeit but 5. *pound* a man.

This Statute at firſt making was but Temporary, but the Parliament finding it a neceſſary Law, by a Statute of the 13*th*, of *Eliz. ch.* 25*th.* it was made Perpetual.

There is another Statute of the 11*th* of *Hen.* 7*th. ch.* 21*ſt.* and another of the 37*th* of *Hen.* 8*th. ch.* 5*th.* touching falſe Verdicts in the Courts of the City of *London*, which differ in ſome ſmall Circumſtances only from that of 23*th. Hen.* 8*th*, which thoſe that have occaſion may repair to for their information; they being too long to be inſerted here.

Cook L. 294. b. Theſe latter Statutes have much mitigated the penalty in this Caſe of what it was by the Common Law. For before theſe Statutes, the puniſhment was as followeth. 1. They were never to be admitted as a Witneſs or Juror ever after. 2. They forfeited all their Goods, and Chattels. 3. All their Lands were to be ſeized into the King's hands. 4. Their Wives and Children were to be caſt out of Doors. 5. Their Trees were to be rooted up. 6. Their Meadows were to be Plowed. 7. Their bodies were to be caſt into Priſon. So odious was this ſort of offence in the Eye of the Common Law: And to ſay the truth, the penalty, as now it is, is of the leaſt, and deſerves rather to be equal to the puniſhment of a Felon; for they merit as well to be hang'd, eſpecially the Ring-Leaders of thoſe, that by untrue verdicts take from a Man 200 *l.* as he that out of neceſſity Robs a Man of forty ſhillings.

F. N. 106. The Law hath this further proviſion for parties injured by untrue Verdicts,

dicts, that if a Man be condemned by ſuch a Verdict in debt or damages, and be taken in Execution; and after ſues an Attaint againſt the Jury, he ſhall have a ſpecial Writ to the Juſtices, who Granted the Execution, to let him out to Bail upon ſureties, that if the Attaint paſs againſt him, he ſhall render himſelf again to Priſon, or to ſatisfie the debt or duty.

By the Statute of the 1. *Ed.* 3. A Man ſhall have an Attaint of damages before Execution.

If the Plaintiff in Attaint upon falſe Verdict be Non-ſute or diſcontinue his Sute, or it goes againſt him, he is to make Fine and Ranſome according to the diſcretion of the Juſtices. And they uſually take their meaſures therein according to the Cauſe the Party had to bring his Attaint.

The main difficulty upon an Attaint of falſe Verdict is, to make exact proof of what Evidence was given at the Tryal where the Verdict was given. For a true Repetition of that Evidence muſt be made, and no other Evidence can be admitted upon the Attaint, but what was given at the firſt Tryal. Therefore it is very requiſite that all Evidence at Tryals ſhould be Recorded in Caſe, where the Evidence is, by Liveing Witneſſes: But if the Evidence be by Depoſitions out of Chancery, there it will eaſily be made appear, for the ſelf ſame may be produc'd again.

Having hinted the Penalty of this Villainous offence, and the Remedy of the Party greived thereby, to the end he knowing there is ſuch a Remedy, may upon occaſion ſeek after the ſame from more Copious inſtructions, the Author concludes with this Advice to all ſuch whoſe misfortunes it may be to be joyn'd with evil Men upon Juries, that they ſtand it out rather than Conſent to give a Verdict, contrary to Evidence. For according to that they by their Oath ought to Act: and not according to their fancy grounded upon ſome other information. For the words of their Oath is to this effect, *Ye ſhall well and truly try the Iſſue in variance, between the Parties, and a true Verdict give according to your Evidence*, ſo help you God.

The only inconvenience that can befal a man, if he refuſes to be Impos'd upon to give a Verdict contrary to Evidence, is that all the Jury be kept up in a Room without Fire or Candle, Meat or Drink, till they Agree, unleſs by the Judges leave; but this ſeldom happens, unleſs ſome of the Jury be very Reſolute for, and others againſt Right, and then it's uſual to have a Juror with-drawn by conſent of Parties, and the Tryal put off to another Jury: thoſe that will not rather do ſo than conſent to an evil Verdict, ought to be puniſh'd ſeverely: for ſuch Men bring a ſcandal upon the Law and the Profeſſors of it. But the Law is good, if Lawfully us'd.

FINIS.